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The Honorable Frederick P. Corbit
Chapter 11

6 **UNITED STATES BANKRUPTCY COURT**
7 **EASTERN DISTRICT OF WASHINGTON**

8 In re:

9 GIGA WATT INC.,

10 Debtor

Case No.: 18-03197-FPC

BAP No.: EW-20-1156

11 **AMENDED STATEMENT OF**
12 **ISSUES ON APPEAL OF JUN DAM,**
13 **DESIGNATION OF RECORD, AND**
14 **STATEMENT OF TRANSCRIPTS**

15 JUN DAM, appellant

16 vs.

17 MARK D. WALDRON, Chapter 11

18 Trustee, appellee
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23 Pursuant to Federal Rule of Bankruptcy Procedure 8009(a), appellant hereby submits his
24 Statement of Issues on Appeal, Designation of Record and Statement of Transcripts:
25
26

STATEMENT OF ISSUES ON APPEAL OF JUN DAM

The bankruptcy court approved the ORDER APPROVING: (I) SALE OF TNT FACILITY AND TRAILER EQUIPMENT FREE AND CLEAR OF ALL LIENS, CLAIMS AND INTERESTS, RELATED OVERBIDDING AND NOTICE THEREOF; (II) ASSUMPTION AND ASSIGNMENT OF LEASES AND POWER CONTRACT; AND (III) GRANTING REQUEST FOR SHORTENED NOTICE THEREON. The appellant requests the appellate court to consider:

Whether the bankruptcy court erred in approving the assumption & assignment of leases and power contract to purchaser EcoChain in violation of appellant rights under 11 U.S.C. §365 after appellant had asserted executory lease rights under 11 U.S.C. § 365(h) and if so what equitable remedies exist for appellant.

Whether the bankruptcy court erred in allowing the debtor to sell TNT facility and trailer equipment free and clear of all liens pursuant to 11 U.S.C. § 363(f)(4) when the court had not ruled if the property or leases were in a bona fide dispute rather than a spurious one.

Whether the bankruptcy court erred in allowing the debtor to sell TNT facility and trailer equipment free and clear of all Liens pursuant to 11 U.S.C. § 363(f)(5) when the court had not determined if the WTT token holders or mining machine owners could be compelled to accept a monetary payment in a legal or equitable proceeding.

Whether appellant and other WTT token holders and mining machine owners, some of whom may or may not have been notified of the sale of their property or lease interests, are entitled to

1 adequate protection under 11 U.S.C. § 363(e) in the event the court approves sale and if so how
2 their interests are adequately protected.

3
4 Whether the bankruptcy court erred in allowing the debtor to sell property, assign leases and the
5 power contract under shortened time and shortened notice under Rule 2002, 6004, 6006, 9014 or
6 other such rules.

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8 Whether the Chapter 11 Trustee provided sufficient proof of adequate protection under 11 U.S.C.
9 § 363(p) during the hearings of the Order and if not what equitable remedies exist for appellant to
10 ensure adequate protection.

11
12 Whether mootness under 11 U.S.C. § 363(m) applies only to subsection § 363(b) and § 363(c) as
13 explicitly stated or if it expands to sales under 11 U.S.C. § 363(f), and if mootness applies
14 narrowly if there are sufficient grounds in this instant case to overturn Order.

15
16 Whether the bankruptcy court abused discretion in not allowing motion for reconsideration under
17 Civil Procedure 60(b) and Rule 9024 that permits orders to be reconsidered due to “fraud
18 (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct” by Chapter
19 11 Trustee after appellant filed a tort claim against appellee for misconduct and
20 misrepresentations, or not allowing motion for reconsideration for other reasons under Rule 9024
21 such as excusable neglect where pro se filers are at a disadvantage because they are restricted
22 from filing electronically.

23
24 Whether 11 U.S.C. § 363(m) renders moot appeals under Federal Rule of Civil Procedure 60(b)
25 and Rule 9024 and if mootness does not apply what equitable remedies exist to appellant and
26 other creditors who are harmed.

DESIGNATION OF RECORD

A. Documents

<u>No.</u>	<u>Description</u>	<u>Date Filed</u>	<u>ECF No.</u>
1	MOTION to Authorize Chapter 11 Trustee to Perform Pursuant to Moses Lake Two-Way Agreement	04/05/2019	260
2	RESPONSE signed by Ben Ellison (RE: Motion to Authorize 260)	05/02/2019	289
3	MOTION FOR ORDER APPROVING AGREEMENT AND GENERAL RELEASE OF CLAIMS (CARLSON ADVERSARY)	02/03/2020	473
4	ORDER Granting Motion to Approve Compromise and Settlement - Carlson	03/10/2020	508
5	MOTION for Allowance of Administrative Expenses - Dart	04/10/2020	547
6	DECLARATION signed by Scott Glasscock	04/10/2020	548
7	CHAPTER 11 Trustee's Motion for Order Approving: (I) Sale of TNT Facility and Trailer Equipment Free and Clear of Liens, Claims and Interests, Subject to Overbidding, Approving Notice Thereof; (II) Assumption and Assignment of Leases and Power Contract and (III) Shortened Notice Thereon	05/01/2020	573
8	MEMORANDUM signed by Pamela M. Egan	05/01/2020	574
9	NOTICE of Hearing	05/01/2020	575
10	DECLARATION in Supp. of Ch. 11 T'ee's Mot. for Order Approving: (i) Sale of TNT Facility, etc.	05/04/2020	576
11	SUPPLEMENTAL DECLARATION in Supp. of Ch. 11 T'ee's Mot. for Order Approving: (i) Sale of TNT Facility, etc.	05/04/2020	577
12	OBJECTION (RE: MOTION to Sell Property Free and Clear of Liens 573). Filed by Samuel Dart	05/07/2020	592


<u>No.</u>	<u>Description</u>	<u>Date Filed</u>	<u>ECF No.</u>
13	DECLARATION of nonprofit Creditors Committee of WTT Token Holders and Miners (Owners) signed by Samuel Dart	05/08/2020	593
14	RESPONSE signed by B. Ellison (RE: MOTION to Sell Property Free and Clear of Liens573)	05/08/2020	594
15	REPLY signed by Pamela M. Egan (RE: Objection 592)	05/12/2020	596
16	DECLARATION of Mark D. Waldron in Supp. of Ch. 11 T'ee's Reply to WTT Token Comm. Obj. to TNT Sale	05/12/2020	597
17	ORDER Approving: (I) Sale of TNT Facility and Trailer Equipment Free and Clear of Liens, Claims and Interests, Subject to Overbidding, Approving Notice Thereof; (II) Assumption and Assignment of Leases and Power Contract and (III) Granting Request For Shortened Notice Thereon (Re: # 573)	05/19/2020	602
18	MOTION to Reconsider (related documents 602 Order on Motion to Sell Property Free and Clear) - Dam	06/05/2020	610
19	Adversary case 20-80020. COMPLAINT.	06/05/2020	627
20	ORDER Denying Motion To Reconsider (Related Doc # 610)	06/18/2020	624
21	Proof of Claim #52 - Jun Dam	02/14/2019	Claim #52

B. Transcripts

<u>No.</u>	<u>Description</u>	<u>Date of Hearing</u>	<u>ECF No.</u>
1	Hearing - Motion to Approve Sale of TNT and assignment/assumption of lease	05/13/2020 1:30PM	598, 599
2	Hearing - Motion to Reconsider Sale of TNT & assignment/assumption of lease - Dam	06/17/2020 2:30PM	621, 622

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Dated this 6th day of July, 2020


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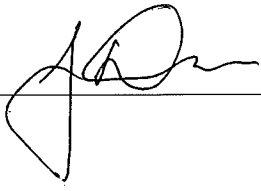
CERTIFICATE OF SERVICE

I certify that a copy of this **AMENDED STATEMENT OF ISSUES ON APPEAL OF JUN DAM, DESIGNATION OF RECORD, AND STATEMENT OF TRANSCRIPTS** was served by mail on the persons listed below:

Pamela Egan, The Potomac Law Group
Attorney for MARK D. WALDRON, Chapter 11 Trustee
1905 7th Ave W
Seattle, WA 98119

Tara Schleicher
Attorney for EcoChain, Inc.
121 SW Morrison St, Suite 1100
Portland, OR 97204

Date Served: 7/6/2020

Sign your name: 

Print name: Jun Dam